THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 15181 of 2007

O r d e r:

The petitioner is a Branch Manager with the respondents-Andhra Bank. While he was working as Assistant Manager in the Zonal Office of the respondents-Andhra Bank, on the ground that he committed certain acts of misconduct while he was working as Manager at Markondaputti Branch, the 2nd respondent, vide orders dated 11.10.2006, placed the petitioner under suspension pending enquiry. For the very same acts of misconduct, the petitioner states a case was registered against him by the Central Bureau of Investigation (CBI) on 31.10.2006. Subsequently, on 28.11.2006, the 2nd respondent issued him charge sheet, and an Enquiry Officer was appointed on 23.12.2006 to enquiry into the acts of misconduct alleged against him. The Enquiry Officer, having conducted the enquiry, submitted his report on 19.06.2007. The petitioner states that since the subject matter of enquiry in the departmental proceedings and the case registered against him by the CBI is on the same acts of misconduct, he made representation dated 25.04.2007, followed by another representation dated 11.05.2007, requesting the respondents to stay the enquiry until conclusion of the case registered against him by the CBI. However, the petitioner states that the 2nd respondent without passing any orders on the said representations, issued notice dated 19.06.2007 calling upon him to explain as to why action should not be taken against him based on the findings arrived at by the Enquiry Officer and other material available on record. The petitioner states that having received the said notice, he once again made a

representation to the respondents on 02.07.2007 requesting them to stay the enquiry proceedings till completion of the CBI case, but to no avail. Hence, he filed the present writ petition assailing the order of suspension dated 11.10.2006 as well as the show cause notice dated 02.07.2007 issued by the 2nd respondent pursuant to the enquiry report.

The learned counsel for the petitioner submitted the petitioner, who is working as Assistant Manager with the respondents, belongs to scheduled caste. He submits that since on the very self-same charges on which the petitioner has been placed under suspension, the CBI has also registered a case, and having regard to the fact that the defence which he may take in the enquiry proceedings would prejudice the investigation of the case registered by the CBI, the petitioner made representations to the respondents to stay the enquiry proceedings till the conclusion of the case registered against him by the CBI, but no action thereon have been taken. However, the 2nd respondent is proceeding to take further action based on the findings arrived at by the Enquiry Officer in his report. He submits that merely because he belongs to scheduled caste, the respondents have discriminated him by not staying the enquiry proceedings till the conclusion of the case registered by the CBI against him. Hence, he prayed that the order of suspension dated 11.10.2006 be revoked and the impugned show cause notice dated 19.06.2007 be set aside the further action in pursuance of the impugned notice be stayed till the conclusion of CBI case.

Having heard the learned counsel for the petitioner and having perused the material available on record.

The petitioner, admittedly, neither questioned the order of suspension nor the order that directed initiation of enquiry against him,

immediately after they were passed. The petitioner merely went on making representations to the respondents requesting them to stay the enquiry proceedings till the conclusion of the CBI case, which they did not consider. However, the Enquiry Officer proceeded with the enquiry, and as the petitioner did not attend the enquiry, the enquiry officer set him *ex parte*, and on the basis of the material available before him, he submitted his report. Thereafter, on the strength of the enquiry report, the 2nd respondent issued the impugned notice, calling upon the petitioner to show cause as to why action should not be taken against him. The petitioner instead of submitting his explanation to the said show cause notice, again submitted another representation requesting the respondents to stay the enquiry proceedings till the conclusion of the CBI case. The law is well settled that criminal proceedings and departmental proceedings are altogether distinct and different. The former are initiated for criminal acts under the penal laws, while the latter are initiated for acts of misconduct under the service rules. In ***Lalit Popli v. Canara Bank and others***[1] the apex Court held that the criminal proceedings and departmental proceedings are entirely distinct and different, that the standard of proof, the mode of enquiry and the rules governing the departmental enquiry and criminal trial are conceptually different. Similar view was taken by the apex Court its another decision in **Ajit Kumar Nag Vs. General Manager (PJ), Indian Oil Corpn. Ltd**[2]**.** Since the departmental proceedings and criminal proceedings are entirely distinct and different, merely because the representations made by the petitioner to the respondents requesting them to stay the enquiry proceedings till the conclusion of the CBI case, were pending, was no ground for the enquiry officer not to proceed with the enquiry, which

was initiated against him under the service rules, though the criminal case and the departmental proceedings, arise out of the same acts of misconduct. Now that the enquiry officer has already submitted his report, on the basis of the said report, the 2nd respondent sought to take further action in the matter, and accordingly issued the impugned show cause notice, and no exception can be taken thereto. At any rate, now at this distance of time, after conclusion of the enquiry proceedings, neither the request of the petitioner for revocation of suspension can be considered nor his request for stay further action in pursuance of the impugned show cause notice, can be granted.

Hence, the writ petition is dismissed. However, the petitioner is at liberty to submit his explanation to the impugned show cause notice. No costs.

N.V. RAMANA, J.

Dated: 26th July, 2007.
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[1] 2003 (3) SCC 583

[2] (2005) 7 SCC 764